

USDC SCAN INDEX SHEET



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3:01-CV-02348 USA V. FORD 1998 MUSTANG

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CMP.

31658

ORIGINAL

1 PATRICK K. O'TOOLE
 United States Attorney
 2 MARK EDELMAN
 Assistant U.S. Attorney
 3 California State Bar No. 156862
 Federal Office Building
 4 880 Front Street, Room 6293
 San Diego, California 92101-8893
 5 Telephone: (619) 557-6563

FILED

01 DEC 21 PM 4:05

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

6 Attorneys for Plaintiff
 United States of America

8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) Civil No.
)
 11 Plaintiff,) COMPLAINT FOR
) FORFEITURE
 12 v.)
)
 13 1998 FORD MUSTANG,)
)
 14 CA LICENSE NO. 4CTK913,)
)
 15 VIN 1FAFP4046WF216642,)
)
 16 ITS TOOLS AND APPURTENANCES,)
)
 Defendant.)

'01 CV

2348

L(AJB)

17 For its claim against the defendant, One 1998 Ford Mustang, CA
 18 License No. 4CTK913, VIN 1FAFP4046WF216642, its tools and
 19 appurtenances (hereinafter "defendant vehicle"), the United States of
 20 America alleges:

21 1. This court has jurisdiction over this action by virtue of
 22 the provisions of Title 28, United States Code, Sections 1345 and
 23 1355, and Title 8, United States Code, Section 1324.

24 2. Venue is proper in this district pursuant to Title 28,
 25 United States Code, Section 1395 because the acts or omissions giving
 26 rise to the forfeiture occurred in this district.

27 ///

28 2001v00860:MPE:tlp

1 3. On July 30, 2001, at approximately 2:40 p.m., Steven Edward
2 Payne entered the United States from Mexico at the San Ysidro Port of
3 Entry. Payne was the driver, registered owner, and sole visible
4 occupant of a 1998 Ford Mustang automobile bearing California license
5 plate 4CTK913. Concealed within a compartment under the back seat of
6 the vehicle at the time of Payne's entry into the United States was
7 Martha Garcia-Leon, a native and citizen of Mexico without legal
8 authorization to enter into or reside in the United States.

9 Upon the discovery of Garcia, Payne was questioned as to his
10 knowledge of her presence in the vehicle. Payne stated that he knew
11 Garcia was in the vehicle and further stated that he knew she was
12 undocumented. Payne stated that he was to be paid \$1,600 to bring
13 Garcia into the United States and then transport her to Santa Ana,
14 California.

15 Payne had also been apprehended while engaged in alien smuggling
16 on August 22, 2000. On that occasion Payne attempted to bring an
17 undocumented alien, Sara Saldivar-Gonzalez, into the United States
18 through the San Ysidro Port of Entry by concealing her in the trunk
19 of his car. Payne admitted his knowledge of Saldivar's presence in
20 the vehicle and her undocumented status. The car Payne was driving
21 on that occasion was the same Ford Mustang that he utilized on
22 July 30, 2001, and which is the subject of this forfeiture complaint.

23 4. On and/or prior to July 30, 2001, the defendant vehicle had
24 been and was being used to facilitate the crime of attempted
25 transportation within the United States of an alien not entitled to
26 enter, reside in, or remain within the United States in violation of
27 Title 8 United States Code, Section 1324(a)(1)(A)(ii).

28 ///

1 5. Because of the aforementioned acts or uses alleged herein,
2 either singly or in combination, the defendant vehicle is subject to
3 forfeiture pursuant to Title 8, United States Code, Section 1324(b).

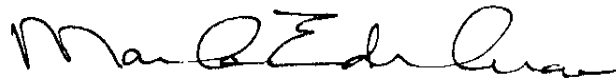
4 6. The defendant vehicle is presently stored within the
5 jurisdiction of this court.

6 7. The value of the defendant vehicle is approximately
7 \$7,050.00.

8 WHEREFORE, the United States prays that due process issue to
9 enforce the forfeiture of the defendant, and that due notice be given
10 to all interested parties to appear and show cause why said forfeiture
11 should not be declared.

12 DATED: 12/20/01

PATRICK K. O'TOOLE
United States Attorney

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15 MARK EDELMAN
16 Assistant U.S. Attorney
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VERIFICATION

I, Alex Romero, hereby state and declare as follows:

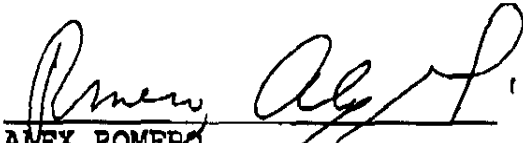
1. I am an Immigration Inspector with the Immigration and Naturalization Service.

2. I have read the foregoing complaint and know its contents.

3. The information in the complaint was furnished by official Government sources. Based on this information, I believe the allegations in the complaint to be true.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on 12/21/01, 2001.


ALEX ROMERO
Immigration Inspector

The JS-44 Civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

ORIGINAL

PLAINTIFFS

UNITED STATES OF AMERICA

COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT [Defendant]
(IN U.S. PLAINTIFF CASES ONLY) DEPUTY

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

MARK EDELMAN
880 FRONT STREET, RM 6293
SAN DIEGO, CA 92101-8893
(619) 557-6563

ATTORNEYS (IF KNOWN)

01 CV 2348 L(AJB)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

☒ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PT	DEF		PT	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

TITLE 8, UNITED STATES CODE, SECTION 1324

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 315 Airplane Product	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 320 Assault, Libel & Liability	<input type="checkbox"/> 368 Asbestos Personal Product Liability	<input type="checkbox"/> 625 Drug Related of Property 21 USC881	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce/ICC
<input type="checkbox"/> 150 Recovery of Enforcement of Judgment	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Loans (Excl. Veterans)	<input type="checkbox"/> 355 Motor Vehicle Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational	<input type="checkbox"/> 861 HIA (13958)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of of Veterans Benefits	<input type="checkbox"/> 360 Other Personal	<input type="checkbox"/> 510 Motions to Vacate Habeas Corpus	<input checked="" type="checkbox"/> 690 Other LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Exchange
<input type="checkbox"/> 160 Stockholders Suits		<input type="checkbox"/> 530 General	<input type="checkbox"/> 710 Fair Labor Standards	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 875 Customer Challenge
<input type="checkbox"/> Other Contract		<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product		<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 730 Labor/Mgmt. Disclosure Act	<input type="checkbox"/> 865 FSI (405(g))	<input type="checkbox"/> 892 Economic
	<input type="checkbox"/> CIVIL RIGHTS	<input type="checkbox"/> PRISONER PETITIONS	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor	<input type="checkbox"/> 870 Taxes (U.S. or Defendant)	<input type="checkbox"/> 894 Energy Allocation
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 555 Prisoner Conditions	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 895 Freedom of
<input type="checkbox"/> 230 Rent Lease &	<input type="checkbox"/> 443				<input type="checkbox"/> 900 Appeal of Fee Under Equal Access to
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare				<input type="checkbox"/> 950 Constitutionality
<input type="checkbox"/> 245 Tort Product	<input type="checkbox"/> 440 Other Civil Rights				<input type="checkbox"/> 890 Other Statutory
<input type="checkbox"/> 290 All Other Real					

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY (See

JUDGE

Docket Number

DATE 12-21-01

SIGNATURE OF ATTORNEY OF RECORD

MARK EDELMAN, AUSA

